

EXHIBIT G

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

MARCIANO PLATA, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

CASE NO. 01-1351 JST

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: May 21, 2020

Time: 10:00 a.m.

Crtrm.: 6, 2nd Floor

Judge: Hon. Jon S. Tigar

1 The parties submit the following joint statement in advance of the May 21, 2020
2 Case Management Conference. The parties exchanged their respective sections at
3 approximately 2:00 p.m. today.

4 **I. PLAINTIFFS' STATEMENT**

5 As of just before 2:00 p.m. on Wednesday, May 20, 2020, 910 patients statewide
6 had been confirmed to have COVID-19 via testing.¹ These include 599 at the California
7 Institution for Men (CIM), an increase of approximately 200 from a week ago and 500
8 from three weeks ago. 449 of CIM's cases are currently considered active at the prison.
9 There have also been 127 cases at California State Prison – Los Angeles County; 39 of
10 those are considered active.² 226 cases statewide are considered resolved.

11 Since last week's Conference, new outbreaks have occurred at three prisons.
12 California Institution for Women (CIW) now has had 108 confirmed cases, an increase of
13 almost 100 from a week ago. That prison houses approximately 1,500, approximately 22%
14 of whom (more than 300) are designated medical high risk; there are also eight who are
15 pregnant. Chuckawalla Valley State Prison (CVSP), an all-dorm institution which houses
16 approximately 2,300 people, has 36 cases. Avenal State Prison, which houses
17 approximately 4,170 people (all but about 100 in dorms) has 25 cases.

18 There was an additional death of a COVID-19 patient this past week, bringing the
19 total to six. All deaths have been of patients from CIM who had serious medical
20 conditions or other factors, such as age, that made them especially vulnerable to the
21 disease. Currently, 32 patients, including 27 from CIM, are at outside hospitals due to
22 COVID-19 complications. We anticipate an increase in community hospitalizations given
23 the increasing number of COVID-19 confirmed cases statewide.

24
25 ¹ This number, and the others reported here, derive from the CDCR/CCHCS "Population
26 COVID-19 Tracking" website, and include active in custody (638), released while active
(10), resolved (226), and deceased (six) patients.

27 ² In addition, as reported previously, California Men's Colony has had 11 cases, Centinela
28 State Prison has had two, and North Kern State Prison and the Substance Abuse Treatment
Facility and State Prison at Corcoran have had one case each.

1 Over the last approximately 10 days, the number of COVID-19 tests done statewide
2 more than doubled, and now totals 7,192. More than 3,100 of that total have been done at
3 CIM, where nearly the entire population has been tested. CCHCS last week indicated it
4 was considering a similar mass testing at CIW. Plaintiffs believe such testing, as well as
5 surveillance testing, is necessary to prevent or reduce the risk of widespread outbreaks and
6 adequately protect the medically vulnerable. In this regard, Plaintiffs have been told that
7 CCHCS has been promised 18,000 COVID-19 tests per month on an ongoing basis.

8 **A. Defendants and the Receiver denied Plaintiffs' request for a plan to**
9 **house people at risk of severe illness or death from COVID-19.**

10 Plaintiffs requested several times that Defendants and the Receiver develop a plan
11 to ensure that people who are medically vulnerable to complications and death from
12 COVID-19 are safely housed during the pandemic. We made this request because
13 COVID-19 is particularly dangerous for people who are elderly and those who are
14 immunocompromised or have certain health conditions, and because many such people are
15 currently housed in crowded congregate living areas in CDCR, where they are at
16 heightened risk of contracting the virus. As stated above, six people, all with known
17 medical conditions predisposing them to COVID complications, have died since April 16th
18 of COVID-related causes. We believe most or all were living in dorms when they
19 developed symptoms of the virus. In addition, of the 30 active COVID patients currently
20 in an outside hospital, 26 have at least one identified risk factor and half have more than
21 two identified risk factors based upon data in the CCHCS COVID registry.

22 After direction from this Court, Defendants responded to Plaintiffs' letter on May
23 15, denying the request for a plan. Defendants stated, and Plaintiffs agree, that CCHCS
24 has identified people who have at least one risk factor for severe disease if they contract
25 the virus. However, they refuse to perform a housing assessment for these people, stating
26 that they and the Receiver believe medical staff already have mechanisms for assessing
27 whether people are "housed in an environment that is conducive to the receipt of ongoing,
28

adequate treatment.” They claim that “a mass movement” of people to different housing “between institutions” is potentially dangerous.

These reasons are faulty. First, Defendants state that they are considering moving some high risk patients out of CIM because of the COVID-19 outbreak at that facility. Although that indefinite commitment comes late, it is welcome and should be expanded to other prisons, especially those such as CHCF and CMF which have scores of potentially vulnerable patients in congregate living areas.

Second, we understand that Defendants and CCHCS have procured a reliable monthly supply of 18,000 COVID-19 tests. In Coleman proceedings, Defendants have described a transfer process in which people will be tested for the virus upon arrival at Reception Centers and again prior to transfer, and then will be housed in quarantine for 14 days upon arrival at their destination prison. Presumably a similar process can be applied to the medically vulnerable requiring transfer to safer housing.

Defendants also assume that this would require mass movement of high risk patients. However, all patients categorized as “high risk” are not necessarily at the same level of risk. For example, patients with well-controlled diabetes are probably at less risk than other high risk patients. An individualized assessment will allow Defendants to avoid a mass transfer by prioritizing patients whose conditions pose the greatest risk. Moreover, because many prisons have both dormitories and celled housing, presumably some “rehousing” will involve moving people from a dorm to celled housing at the same prison, avoiding the need for a transfer to a different prison.

The CDCR tracking website shows that while the curve for California and the United States is flattening, the curve for confirmed cases in prison is rising at a much higher rate. (<https://www.cdcr.ca.gov/covid19/population-status-tracking/> at p. 4.) Therefore, in the near term there will probably be more outbreaks at other prisons. Under these critical circumstances, additional precautions related to the housing of medically vulnerable patients should be taken immediately. If adequate space is not available in the

Executive is scheduled for Thursday, May 21, and Plaintiffs have provided questions and concerns in advance. In addition to matters related to the issues discussed above, we have asked to discuss the adequacy of hospital beds for COVID patients at CIW, CIM and CVSP, given that Riverside and San Bernardino Counties have high rates of COVID infection, and about measures to prevent virus transmission for those patients who require regular treatment at community hospitals or other off-site medical facilities.

II. DEFENDANTS' STATEMENT

Defendants' statement addresses the questions this Court raised during the May 14 case management conference. In addition, Defendants' statement provides a summary of additional information and documents they have produced to Plaintiffs since the last conference.

Defendants also remain concerned with Plaintiffs' efforts in the *Coleman* litigation, which have the effect of muddying the waters dividing the *Plata* and *Coleman* matters. Most recently, on Monday, May 18, counsel in *Coleman*, Michael Bien, requested that the Special Master devote time on the task force meeting agenda to specifically consider "transfers of medically vulnerable" inmates. Mr. Specter and Mr. Fama were copied on this request and ultimately participated during the discussion of this agenda item during the *Coleman* task force meeting.

Mr. Bien's request was made following *Plata* Defendants' and CCHCS' joint response to *Plata* Plaintiffs' May 7 letter regarding the transfer of medically high-risk inmates. In their joint response, CDCR and CCHCS stated that:

(1) CCHCS has already identified inmates with at least one risk factor for severe illness if they contract the disease;

(2) CCHCS does not believe that additional analysis of risk on an individual basis is necessary because medical staff already have policies and procedures in place for assessing whether medically high-risk inmates are housed in an appropriate environment and if a high-risk patient living in "non-standard" housing (e.g., gyms or tents) cannot be treated

1 adequately for any reason, alternative placement for that patient may be appropriate; and

2 (3) CCHCS believes that mass movement of high-risk inmates between institutions
3 without outbreaks is ill-advised and potentially dangerous since movement itself carries
4 significant risk of spreading transmission of the disease between institutions. This initial
5 response utilizes the well-accepted public health concepts of sheltering-in-place within the
6 institution, quarantine and isolation. But the risks associated with transfer may be less than
7 the risk of sheltering in place where the virus is present throughout housing units and high
8 risk inmates test negative. CDCR will work with CCHCS to facilitate the safe transfer of
9 high risk inmates if deemed appropriate by CCHCS and will consult with the Office of the
10 Special Master if such transfers would impact *Coleman* class members.

11 **A. Response to the Court's question about releases**

12 CDCR does not currently plan on conducting additional accelerated inmate releases.
13 CDCR, however, has determined that it will postpone intake of inmates from the counties
14 for an additional 30 days, with the exception of the intake of approximately 200 inmates
15 over the next month. This limited intake of about 200 inmates will allow CDCR to test its
16 new intake processes, including intake COVID-19 testing, and establish best practices of
17 how to safely and efficiently expand intake. CDCR's decision to postpone intake for an
18 additional 30 days will result in a further reduction of the prison population over the next
19 month by approximately 1700 inmates. By way of reminder, intake was initially
20 suspended by the Governor's March 24, 2020 Executive Order, and since that time,
21 CDCR's adult population has decreased by approximately 5,317 inmates (as of May 13,
22 2020).

23 CDCR does not currently plan to conduct additional early inmate releases because it
24 believes that it has taken and continues to take sufficient appropriate steps to improve the
25 safety of inmates and staff in its prisons through social distancing, screening, enhanced
26 cleaning and sanitation, staff and inmate education, and increased testing. CDCR will
27 continue to monitor the evolving nature of this crisis and conditions in its institutions, and
28

1 Correctional Training Facility, Chuckawalla Valley State Prison, North Kern State Prison,
2 and Valley State Prison. On May 15, CDCR and CCHCS sent their joint response to
3 PLO's May 7 letter about housing of medically vulnerable inmate-patients to Plaintiffs'
4 counsel. On May 18, Defendants produced a map and photos of the medical triage tents
5 that were set up at the California Institution for Men. On May 19, Defendants provided
6 responses to PLO's follow-up questions about a document pertaining to the status of social
7 distancing in CDCR's dorms as well as an updated status summary. The same day,
8 Defendants also produced a poster that lists the updated screening criteria for staff who
9 enter CDCR's institutions, and CDCR and CCHCS provided answers to Plaintiffs'
10 questions about the processes for critical inmate workers at the California State Prison –
11 Los Angeles County via the non-paragraph 7 process. Lastly, Defendants intend to
12 respond in writing on May 20 to Plaintiffs' counsel's May 18 letter in which Plaintiffs
13 provide their suggestions regarding intake.

14 Regarding Plaintiffs' request for a virtual tour at the California Institution for Men,
15 the parties met and conferred on the topic on May 15 and discussed which areas Plaintiffs'
16 counsel would like to tour. A test run is planned at CIM on May 20 to determine whether
17 the tour can be facilitated from a technical perspective. Subject to confirmation from
18 Plaintiffs' counsel and to the parties' agreement on the agenda of the tour, the virtual tour
19 is likely to occur on Friday, May 22.

20
21 DATED: May 20, 2020

PRISON LAW OFFICE

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23 By: /s/ Steven Fama

24 STEVEN FAMA

25 Attorney for Plaintiffs
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27
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1 DATED: May 20, 2020

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10 DATED: May 20, 2020

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